

Representative Craig A. Frank proposes the following substitute bill:

**AMENDMENTS TO THE TOURISM,
RECREATION, CULTURAL, CONVENTION,
AND AIRPORT FACILITIES TAX ACT**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig A. Frank

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act.

Highlighted Provisions:

This bill:

- provides that a county may not pledge revenues collected from a tax on certain food and beverages sold by restaurants as security for a bond, note, or other evidence of indebtedness if the bond, note, or other evidence of indebtedness is issued on or after July 1, 2010;

- provides limits on a county's ability to make certain modifications with respect to a bond, note, or other evidence of indebtedness if the bond, note, or other evidence of indebtedness is issued on or before June 30, 2010 and secured by revenues collected from a tax on certain food and beverages sold by restaurants;

- requires a county to repeal a tax on certain food and beverages sold by restaurants if the county is not pledging the revenues collected from the tax as security for a bond, note, or other evidence of indebtedness or if bonds, notes, or other evidences of



indebtedness secured by the tax are retired;

- provides procedures and requirements for a county to repeal a tax on certain food and beverages sold by restaurants; and

- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-603, as last amended by Laws of Utah 2009, Chapter 7

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-12-603** is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Limits on pledging tax revenues as security for a bond, note, or other evidence of indebtedness -- Requirement to repeal tax on certain food and beverages sold by a restaurant under certain circumstances -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant

to a repair or an insurance agreement;

(ii) subject to Subsection (3), a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) A county of the first class shall expend at least \$450,000 each year of the revenues from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) ~~[(A)]~~ (a) Subject to Subsections (3)(b) through (e), a tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a

community development and renewal agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

- ~~[(a)]~~ (i) an airport facility;
- ~~[(b)]~~ (ii) a convention facility;
- ~~[(c)]~~ (iii) a cultural facility;
- ~~[(d)]~~ (iv) a recreation facility; or
- ~~[(e)]~~ (v) a tourist facility.

(b) A county may not pledge revenues collected from a tax under Subsection (1)(a)(ii) as security for a bond, note, or other evidence of indebtedness if that bond, note, or other evidence of indebtedness is issued on or after July 1, 2010.

(c) If a bond, note, or other evidence of indebtedness issued on or before June 30, 2010 is secured by revenues collected from a tax under Subsection (1)(a)(ii), the county that pledges the revenues collected from the tax under Subsection (1)(a)(ii) as security for the bond, note, or other evidence of indebtedness:

(i) may not:

(A) increase the face value of the bond, note, or other evidence of indebtedness;

(B) extend the term for repayment of the bond, note, or other evidence of indebtedness;

(C) refinance the bond, note, or other evidence of indebtedness ~~H~~→ **if refinancing the bond, note, or other evidence of indebtedness extends the term for repayment of the bond, note, or other evidence of indebtedness** ~~←H~~ ; or

(D) take an action with respect to the bond, note, or other evidence of indebtedness similar to Subsections (3)(c)(i)(A) through (C); and

(ii) shall repeal the tax under Subsection (1)(a)(ii) in accordance with Subsection (3)(e) when the bonds, notes, or other evidences of indebtedness issued on or before June 30, 2010 that are secured by revenues collected from a tax under Subsection (1)(a)(ii) are retired.

(d) A county that, on May 11, 2010, is not pledging revenues collected from a tax under Subsection (1)(a)(ii) as security for a bond, note, or other evidence of indebtedness shall repeal the tax under Subsection (1)(a)(ii) in accordance with Subsection (3)(e).

(e) (i) A county:

(A) required by Subsection (3)(c)(ii) to repeal a tax under Subsection (1)(a)(ii) shall within 10 business days after the date the bonds, notes, or other evidences of indebtedness described in Subsection (3)(c)(ii) are retired, notify the commission in accordance with Subsection (9) that the county will repeal the tax under Subsection (1)(a)(ii); or

(B) required by Subsection (3)(d) to repeal a tax under Subsection (1)(a)(ii) shall notify the commission on or before July 1, 2010 in accordance with Subsection (9) that the county will repeal the tax under Subsection (1)(a)(ii).

(ii) For purposes of this Subsection (3), a repeal of a tax under Subsection (1)(a)(ii) takes effect on the first day of the first calendar quarter after a 90-day period beginning on the date the commission receives a notice described in Subsection (3)(e)(i).

(4) (a) In order to impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) In order to maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be appointed by the county legislative body of the county of the first class as follows:

(A) one member shall be a resident of the unincorporated area of the county;

(B) two members shall be residents of the incorporated area of the county; and

(C) one member shall be a resident of the unincorporated or incorporated area of the county; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

150 (c) Five members of the tax advisory board constitute a quorum.

151 (d) The county legislative body of the county of the first class shall determine:

152 (i) terms of the members of the tax advisory board;

153 (ii) procedures and requirements for removing a member of the tax advisory board;

154 (iii) voting requirements, except that action of the tax advisory board shall be by at

155 least a majority vote of a quorum of the tax advisory board;

156 (iv) chairs or other officers of the tax advisory board;

157 (v) how meetings are to be called and the frequency of meetings; and

158 (vi) the compensation, if any, of members of the tax advisory board.

159 (e) The tax advisory board under this Subsection (6) shall advise the county legislative

160 body of the county of the first class on the expenditure of revenues collected within the county

161 of the first class from the taxes described in Subsection (1)(a).

162 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part

163 shall be administered, collected, and enforced in accordance with:

164 (A) the same procedures used to administer, collect, and enforce the tax under:

165 (I) Part 1, Tax Collection; or

166 (II) Part 2, Local Sales and Use Tax Act; and

167 (B) Chapter 1, General Taxation Policies.

168 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or

169 Subsections 59-12-205(2) through (6).

170 (b) Except as provided in Subsection (7)(c):

171 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the

172 commission shall distribute the revenues to the county imposing the tax; and

173 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues

174 according to the distribution formula provided in Subsection (8).

175 (c) The commission shall deduct from the distributions under Subsection (7)(b) an

176 administrative charge for collecting the tax as provided in Section 59-12-206.

177 (8) The commission shall distribute the revenues generated by the tax under Subsection

178 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the

179 following formula:

180 (a) the commission shall distribute 70% of the revenues based on the percentages

generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenues based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

Fiscal Note**H.B. 48 1st Sub. (Buff) - Amendments to the Tourism, Recreation, Cultural,
Convention, and Airport Facilities Tax Act**

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill could reduce local revenues over time. Individuals and business would see a corresponding savings.
